

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re Applications of)	MM DOCKET NO. 93-87
)	
RAYMOND W. CLANTON)	File No. BPH-911216MC
)	
LOREN F. SELZNICK)	File No. BPH-911216MD
)	
)	
For Construction Permit for a)	
New FM Station on channel 279A)	
in El Rio, California)	

To: Honorable John M. Frysiak
Administrative Law Judge

SUPPLEMENT TO NOTIFICATION OF
WITNESS FOR CROSS-EXAMINATION

Loren F. Selznick respectfully submits this Supplement to her October 12, 1993 Notice that Raymond W. Clanton be present at the November 4, 1993 hearing for cross examination.¹ There is good cause for requiring Mr. Clanton to be cross examined at the hearing regarding his comparative case.

I. Clanton's Full Time Integration Pledge

1. Mr. Clanton, a resident of Sedona, Arizona, proposes that if his El Rio, California application is granted, he will sell the Verde Fun Park in Sedona, of which he is the sole owner. See Clanton Exhibit 1. The record is unclear, however, regarding when Mr. Clanton would sell the twelve-acre Fun Park or whether

¹ Selznick's October 12, 1993 Notice stated that a Supplement would be filed after counsel had received and studied the transcript of Mr. Clanton's October 4, 1993 deposition.

Mr. Clanton is willing to sell the Fun Park under distress conditions.² Moreover, at Mr. Clanton's recent deposition, Selznick developed "some" evidence that further clouds the issue of when he would sell the Fun Park and under what conditions:³

- a. Clanton has a five-year note for the 20 acre real estate on which the Fun Park is located. Tr. 19-20.
- b. Clanton's current plan is to develop eight more acres in the future. Tr. 20.
- c. Thus far the Fun Park has taken two years to develop and construct (Tr. 22), and Mr. Clanton is devoting 70 hours-per-week to running it (Tr. 39).
- d. Mr. Clanton has taken out two other personal loans for the Fun Park that are secured by real estate in California that is owned by Mr. Clanton. Tr. 43-44.
- e. Mr. Clanton does not have a prospective purchaser for the Fun Park (Tr. 46). He refused to state whether or not the Fun Park was currently meeting its expenses (Tr. 50) and he refused to provide any financial information about the cost of or liabilities of the Fun Park (Tr. 50-51).
- f. Clanton has yet another business, a research company (sole proprietorship), that has developed various sports products (Tr. 58).
- g. Clanton is "still interested" in real estate investments and owns rental property that requires him to perform "certain given tasks that are covered in the agreements." Tr. 62. He does repairs on property (including the replacement of an underground water line) and he visits each property at least ten to fifteen times a year, with the exception of the past four or five months. Tr. 62-5.

² The evidentiary lacuna regarding when Mr. Clanton would sell stands in conspicuous contrast to his specificity as to when he would move to El Rio to establish fulltime local residence. See Clanton Exhibit 1.

³ Judge Frysiak restricted Selznick's attempt at Mr. Clanton's deposition to test Mr. Clanton's pledge to sell the Fun Park.

- h. Mr. Clanton owns his home in Arizona "that has to be cared for." Tr. 66.
- i. Mr. Clanton is in escrow on another piece of property in Arizona that is separate from the Fun Park and on which he hopes to build a golf course. Tr. 67-8. If he is successful in the FM case, he will not sell this property but will "hold it for investment". Tr. 68.

2. Mr. Clanton refused to discuss at deposition whether, if his FM application is granted, he would be willing to sell the Fun park for less than what is due on the several notes. Tr. 70. He also refused to answer what he would do if, following all his best efforts, there are no acceptable offers to buy the Fun Park. Tr. 71-2.

3. In short, there are serious questions about when or whether Mr. Clanton will sell the Fun Park, when or whether he will sell his rental property and whether his other investment property might impair his ability to effectuate his full time FM integration proposal. Cf. Woods Communications Group, Inc., 7 FCC Rcd 78, 79-81 (1991) (integrated owner failed to submit "clear evidence" that she would resign her current full time job). Indeed, there is at least one aspect of Mr. Clanton's written direct testimony that is flatly contradicted by his deposition testimony.⁴ That conflict alone requires that he be cross examined at the November 4th hearing. The need for Mr. Clanton's cross examination becomes even greater in light of the

⁴ Mr. Clanton states that he "will resign any employment or other commitments he may have." Clanton Exhibit 1 at 1. At his deposition, he expressly stated that he would not sell certain of his Arizona investment property. Tr. 68. He has other investment property apart from the Fun Park. See Dep. Tr. 62-5.

other questions, discussed supra, about his bare pledge to sell the Fun Park. In the interest of a complete record, Ms. Selznick should be permitted to cross-examine Mr. Clanton on this potentially decisional matter.

II. Clanton's Past Local Residence/Civic Claims

4. Mr. Clanton claims past residence in the El Rio service area. See Clanton Exhibit 1 at 1. He claims, inter alia, 85% residence in Camarillo, California, from 1986-88, 70% residence in Camarillo from 1988-January 1992, 95% residence in Camarillo from February 1992 to October 1992 and 40% residence in Camarillo from October 1992-January 1993.

5. Ms. Selznick desires to cross-examine Mr. Clanton regarding how he determined the foregoing specific percentages. She also desires to cross-examine Mr. Clanton regarding where certain of his claimed civic activities took place.⁵

III. Mr. Clanton's Broadcast Experience Claim

6. Mr. Clanton claims past broadcast experience. Clanton Exhibit 1 at 3. His basis for that claim is his work as a "commercial production volunteer" and his "artistic involvement" at various radio and cable facilities. Id.

7. Ms. Selznick desires to cross examine Mr. Clanton regarding the quantitative and qualitative nature of his

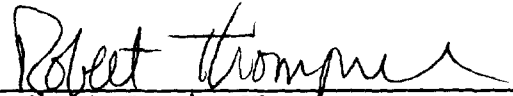
⁵ Mr. Clanton's direct case testimony is ambiguous. For example, it is unclear where "Read, Write and Spell, Inc." is located. See Clanton Exhibit 1 at 1-2. It is unclear where "he provided voluntary counseling and consulting services." Id. at 2. It is unclear how he "participated in numerous community functions" such as the Ventura County EDA conference (id.), the mountain celebration (id.) and various other dinners, celebrations, open houses, banquets and barbecues (id. at 2-3).

"volunteer" services. It appears that Mr. Clanton's services are not of the "stripe" for which the FCC has awarded credit for past broadcast experience.

IV. Mr. Clanton's Divestiture Pledge

8. Mr. Clanton proposes to divest his interest in the Ojai FM application, of which he is president and 20% owner. Id. at 3. Ms. Selznick desires to cross-examine Mr. Clanton regarding his divestiture pledge in view of the fact that he is president of the Ojai corporation and that application was filed several years prior to the El Rio application.

Respectfully submitted,



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October 22, 1993

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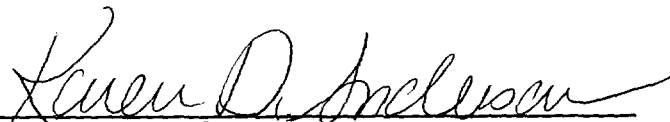
CERTIFICATE OF SERVICE

I, Karen D. Anderson, do certify that a copy of the foregoing "Supplement to Notification of Witness for Cross Examination" was served by prepaid, First Class U.S. Mail on this 22nd day of October 1993, on the following:

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